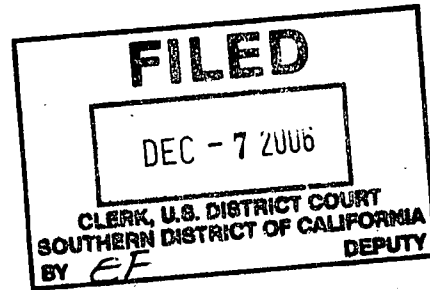


CAROL C. LAM
United States Attorney
LAWRENCE A. CASPER
Assistant United States Attorney
California State Bar No. 235110
United States Attorney's Office
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101
Telephone: (619) 557-7455



Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE CARLOS SERRANO-GARCIA,

Defendant.

Magistrate Case No. 06MJ8869

06CR2576-BEN

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

(Pre-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Carol C. Lam, United States Attorney, and Lawrence A. Casper, Assistant United States Attorney, and defendant JOSE CARLOS SERRANO-GARCIA, by and through and with the advice and consent of defense counsel, Russell Babcock, Esq., that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii) and (v)(II).

//

//

//

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **December 27, 2006**.

6 4. The material witnesses, Jose Guadalupe Nunez-Garcia, Andres Sangrador-Barba and
7 Fernando Perez-Cervantes, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;

9 b. Entered or attempted to enter the United States illegally on or about
10 November 21, 2006;

11 c. Were found in a vehicle driven by defendant near Calexico, California and
12 that defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful
13 right to enter or remain in the United States;

14 d. Were paying \$1,500-\$1,800 to others to be brought into the United States
15 illegally and/or transported illegally to their destination therein; and,

16 e. May be released and remanded immediately to the Department of Homeland
17 Security for return to their country of origin.

18 5. After the material witnesses are ordered released by the Court pursuant to this
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any
21 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral
22 attack, that:

23 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
24 substantive evidence;

25 b. The United States may elicit hearsay testimony from arresting agents
26 regarding any statements made by the material witness(es) provided in discovery, and such
27

testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of (an) unavailable witness(es); and,

c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004), "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant waives the right to confront and cross-examine the material witness(es) in this case.

6. By signing this stipulation and joint motion, defendant certifies that defendant has read it (or that it has been read to defendant in defendant's native language). Defendant certifies further that defendant has discussed the terms of this stipulation and joint motion with defense counsel and fully understands its meaning and effect.

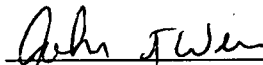
Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness(es) to the Department of Homeland Security for return to their country of origin.

It is STIPULATED AND AGREED this date.

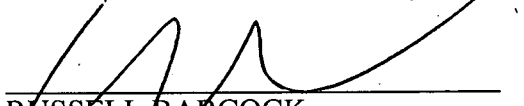
Respectfully submitted,

CAROL C. LAM
United States Attorney

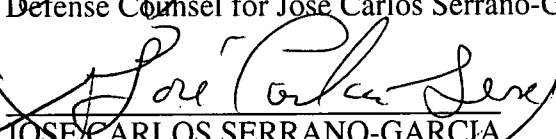
Dated: 12-7-06


LAWRENCE A. CASPER
Assistant United States Attorney

Dated: 12/1/06


RUSSELL BABCOCK
Defense Counsel for Jose Carlos Serrano-Garcia

Dated: 12/6/06


JOSE CARLOS SERRANO-GARCIA
Defendant

ORDER

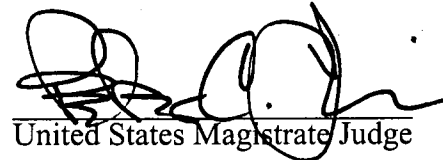
Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 12-7-06


United States Magistrate Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)

Plaintiff)

vs.)

Jose Carlos Serrano-Garcia)

Defendant(s))

CRIMINAL NO. 06CR2576-Ben

ORDER

RELEASING MATERIAL WITNESS

Booking No.

On order of the United States District/Magistrate Judge, **PETER C. LEWIS**

IT IS HEREBY ORDERED that the following named person heretofore
committed to the custody of the United States Marshal as a material witness be
released from custody: (Bond Posted / Case Disposed / Order of Court)

Fernando Perez-Cervantes

DATED: 12/07/06

PETER C. LEWIS

UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED _____
DUSM

OR

W. SAMUEL HAMRICK, JR. Clerk

by José Antonio R. ...
Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

2006-12-07

UNITED STATES OF AMERICA,)	
)	
Plaintiff)	CRIMINAL NO. <u>06CR2576Ben</u>
)	
vs.)	ORDER
)	
Jose Carlos Serrano-Garcia)	RELEASING MATERIAL WITNESS
)	
Defendant(s))	Booking No.
)	

On order of the United States District/Magistrate Judge, **PETER C. LEWIS**

IT IS HEREBY ORDERED that the following named person heretofore committed to the custody of the United States Marshal as a material witness be released from custody: (Bond Posted / Case Disposed / Order of Court).

Jose Guadalupe Nunez-Garcia

DATED: 12/7/06

PETER C. LEWIS

UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED _____
DUSM

OR

W. SAMUEL HAMRICK, JR. Clerk

by [Signature]
Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)

Plaintiff)

vs.)

Jose Carlos Serrano-Garcia)

Defendant(s))

CRIMINAL NO. 06 CRJ 576 BEN

ORDER

RELEASING MATERIAL WITNESS

Booking No.

On order of the United States District/Magistrate Judge,

PETER C. LEWIS

IT IS HEREBY ORDERED that the following named person heretofore
committed to the custody of the United States Marshal as a material witness be
released from custody: (Bond Posted / Case Disposed / Order of Court).

Andres Sangraclar-Barba

DATED: 12/17/06

PETER C. LEWIS
UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED _____
DUSM

OR

W. SAMUEL HAMRICK, JR. Clerk

by E. Flores

Deputy Clerk